



50245

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT 09 1992

Mr. J. Edward Goff
Vice President and General Counsel
Commodore Business Machines, Inc.
Executive Offices
1200 Wilson Drive
West Chester, PA 19380

Re: Commodore Semiconductor Group Superfund Site: "Special Notice" for Negotiations for Remedial Design & Remedial Action/Demand for Payment of Costs

Dear Mr. Goff:

This letter relates to the liability of Commodore Business Machines, Inc. ["Commodore"] in connection with the Commodore Semiconductor Group Superfund Site ["Site" or "CSG Site"].

INTRODUCTION

The United States Environmental Protection Agency ["EPA"] has conducted and overseen activities undertaken at the Site in response to the release and/or threat of release of hazardous substances, pollutants, or contaminants into the environment. By letter dated October 2, 1987, EPA notified Commodore of its potential liability for such response action pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ["CERCLA"], 42 U.S.C. § 9607. EPA has also selected remedial action for implementation at the Site, which remedial action is described in a document called a Record of Decision ["ROD"] signed by EPA on September 29, 1992. EPA is now contacting you in an attempt to resolve Commodore's liability with respect to this matter. Toward that end, this letter contains:

1. A formal demand for reimbursement of costs that have been incurred (including interest thereon) and that are to be incurred (which are subject to interest) in conducting and/or overseeing response action at the Site (Demand for Payment);
2. Notification that a limited period of formal negotiations for an agreement under which Commodore will implement the requirements of the ROD begins with your receipt of this Special Notice letter;

AR201210

3. General and site-specific information to assist you in these negotiations; and
4. A proposed consent decree, as described below.

DEMAND FOR PAYMENT

As of April 8, 1992, EPA has paid costs in excess of \$204,888.76 for response activities related to the Site. Although this figure may not include all applicable costs paid to date, the figure represents EPA's most recent calculation. Furthermore, oversight and related enforcement costs may continue to be incurred.

By this letter, EPA demands that Commodore reimburse the Agency for past costs of at least \$204,888.76. Failure to pay, or delay in payment, may subject Commodore to the risk of increased costs including, but not limited to, interest and enforcement costs. Interest on amounts recoverable begins to accrue as of the date of this letter as provided by Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

You may contact the following person to arrange for payment of the above-described costs:

Ms. Sarah Keating (3RC33)
Assistant Regional Counsel
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-0814

SPECIAL NOTICE NEGOTIATIONS MORATORIUM

EPA has determined that use of the "special notice" procedures specified in Section 122 of CERCLA, 42 U.S.C. § 9622, will facilitate a settlement between EPA and Commodore for implementation of remedial action at the CSG Site. Therefore, pursuant to that section, your receipt of this letter triggers a sixty (60) day moratorium on certain EPA response activities at the Site. During this sixty (60) day period, Commodore is invited to submit a good faith proposal (defined below) to conduct and/or finance such remedial action and negotiate a consent decree (described below) under which Commodore will perform such work. If EPA determines that such a good faith offer has been timely received, the Agency will provide an additional sixty (60) days to finalize the consent decree. When approved by EPA and the United States Department of Justice, the consent decree will then be filed in federal court.

EPA encourages Commodore's participation by submitting a good faith proposal as defined below.

AR201211

Good Faith Proposal

A good faith proposal to conduct or finance the remedial action is a written proposal that demonstrates Commodore's qualifications and willingness to perform such work and includes the following elements:

1. A statement of willingness and financial ability by Commodore to implement the requirements of the ROD and proposed consent decree;
2. A demonstration of Commodore's technical capability to conduct the work, including the identification of the firm(s) that Commodore intends to retain to conduct all or portions of such work or a description of the process Commodore will use to select the firm(s);
3. A statement of Commodore's willingness and ability to reimburse EPA for costs incurred in overseeing the performance of the work as well as EPA's past costs (as described above);
4. Comments, if any, on the proposed consent decree (see below);
5. The name, address, telephone, and telefax number (if any) of the person(s) who will represent Commodore in negotiations for a consent decree.

Consent Decree

Section 122(d)(1)(A) of CERCLA, 42 U.S.C. § 9622(d)(1)(A), requires that settlements for remedial action be entered in the appropriate federal district court in the form of a consent decree. Enclosed with this letter you will find a site-specific draft of EPA's model consent decree. This model provides boiler-plate language for most provisions in order to standardize CERCLA consent decrees as much as possible and expedite CERCLA settlements. The United States will commence negotiations with a document containing language which, for the most part, is the same language the Government will expect in a final settlement because it reflects legal and procedural terms that have been found acceptable to both EPA and the regulated community in a large number of situations. Your decision to submit a good faith proposal to perform the work should be made with the understanding that the terms appearing in the draft consent decree are substantially the terms which EPA expects to appear in the final settlement.

PRP Steering Committee

EPA encourages good-faith negotiations between Commodore and EPA and between Commodore and other potentially responsible

AR201212

parties ["PRPs"]. To facilitate these negotiations, EPA is informing Commodore that Allen-Bradley Company, Inc., 1201 S. Second Street, Milwaukee, Wisconsin 53204, Attention: Donald H. Davis, Jr., President, has been sent a similar notification of liability. The fact that Allen-Bradley Company, Inc. is the only other party to receive such a letter does not constitute a final determination by EPA concerning the liability of any party with respect to the Site.

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful negotiations with EPA. Alternatively, EPA encourages each PRP to select one person from its company or organization who will represent its interests.

PRP Response/EPA Contact Person

Commodore is encouraged to contact EPA as soon as possible to state its willingness to participate in negotiations relating to the Commodore Site. Specifically, Commodore has sixty (60) calendar days from receipt of this letter to provide EPA with a written proposal as described above. Commodore may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that Commodore does not wish to negotiate a resolution of its liabilities in this matter and that Commodore has declined any involvement in performing the response activities. In such event, EPA may, among other things, issue an Administrative Order directing Commodore to perform the response action; seek to file an action in federal court to obtain a court order directing Commodore to perform the response action; and/or perform the response action and seek reimbursement from liable parties.

If a proposal is submitted which does not satisfy EPA, Commodore will be notified in writing of EPA's decision to end the moratorium on negotiations and the reasons therefor. Commodore may be held liable pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, for the cost of response action performed by EPA and for any damages to natural resources.

Your response to this letter, including written proposals to perform the remedial action selected for the Site, should be sent to:

Ruth Rzepski (3HW21)
U.S. Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
(215) 597-3216

A carbon copy should be provided to Sarah Keating, Assistant

AR201213

Regional Counsel, at the same address.

ADMINISTRATIVE RECORD

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA has established an administrative record which contains documents forming the basis of EPA's selection of response action for the Site. The administrative record file is available to the public for inspection and comment. You may wish to review the administrative record to assist you in responding to this letter, but your review should not delay such response. Copies of the file are located both at the EPA Region III office and the Site Repositories:

Lower Providence Community Library
2756 Egypt Road
Audubon, PA 19405
(215) 666-6641

and

Montgomery County Planning Commission Courthouse
One Montgomery Plaza
Norristown, PA 19404
(215) 278-3733

Note that this letter may pertain to one of several operable units requiring response at the Site. Unless otherwise specified herein, this letter does not apply to any other operable unit at the Site or any other site.

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

If you or your attorney have any questions pertaining to this matter, please direct them to Sarah Keating, (215) 597-0814.

Sincerely,



Abraham Ferdas, Director
Office of Superfund

cc: David Kennedy (PADER)
Daniel G. Shillito (DOI)
Shelly L. Hall (DOI)
Kirsten Erickson (NOAA)
Sarah Keating, Esq. (3RC33)

Enclosure: Draft Consent Decree

AR201214

P 753 211 579

Certified Mail ReceiptNo Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to <i>Mr. J. Edward Goff</i>	
Street & No. <i>Vice President and General Counsel</i>	
<i>Commodore Business Machines</i>	
<i>1200 Wilson Drive</i>	
P.O. State & ZIP Code <i>West Chester, PA 19380</i>	
Postage	\$
Certified Fee	\$
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Address of Delivery	
TOTAL Postage & Fees	\$
Postmark or Date	

R.R. 34421
UNITED STATES POSTAL SERVICE

Official Business

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

Print your name, address and ZIP Code here

Ruth Rzepski 34421

Environmental Protection Agency
Region III841 Chestnut Building
Philadelphia, PA 19107**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. J. Edward Goff
Vice President and General Counsel
Commodore Business Machines, Inc.
EXECUTIVE OFFICES
1200 Wilson Drive
West Chester, PA 19380

4a. Article Number

P 753 211 579

4b. Service Type

- | | |
|-----------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> Registered | <input type="checkbox"/> Insured |
| <input checked="" type="checkbox"/> Certified | <input type="checkbox"/> COD |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Return Receipt for Merchandise |

7. Date of Delivery

10/15/92

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

C. Wallace

Thank you for using Return Receipt Service.

AR201215